

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41668 of 2014

Arising Out of PS.Case No. -39 Year- 2013 Thana -JHANJHARPUR District- MADHUBANI

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Md. Badiuzzama Son of Abdul Kalam, Resident of Village - Gidarganj, P.S.
Andharathadhi, District - Madhubani.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Prabhakar Singh, Advocate.

For the Opposite Party/s : Mr. S.N. Shukla, A.P.P.

For the wife of deceased: Mr. Mahendra Thakur & Mr. Vijay Kumar.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

10 31-07-2015

Heard both sides.

The petitioner apprehends his arrest in a case under Sections 279, 337, 338, 304(A) of the Indian Penal Code. Later on, Sections 302, 120(B)/34 of the Indian Penal Code were added.

On the basis of the statement of the informant Hasibul Mansuri, the case was lodged against unknown under Section 304(A) and other sections of the Indian Penal Code. Hasibul Mansuri disclosed that while he along with the deceased was going on a motorcycle to attend a Barat party, another motorcycle came and dashed the motorcycle of the informant in which the owner of the motorcycle Yanatullah died on the spot. The informant was firstly treated in Jhanjharpur Hospital and thereafter he was referred to D.M.C.H. Learned counsel for the petitioner submits that firstly Sanha was registered by the police

about the accident. Thereafter, the present F.I.R. was lodged on the basis of the Fardbeyan of Hasibul Mansuri. After Para 34 of the case diary, the investigation took a U-turn and the case is registered under Section 302 of the Indian Penal Code from Section 304(A). The informant himself disclosed the fact that the petitioner and others came on two motorcycles and they brutally assaulted Yanatullah, who happens to be the brother-in-law (Sala) of the informant Hasibul Mansuri. Yanatullah was killed on the spot. It is submitted that except statement of the informant, there is no eye-witness of the occurrence, but it appears from perusal of the records that the informant is an eye-witness of the occurrence and there was none present at the place of occurrence. There were circumstances which show that Yanatullah was not killed in the accident as no substantial damage was found to the motorcycle on which the informant and Yanatullah were travelling. The prayer for regular bail of Hasibul Mansuri, the informant, has already been rejected.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on anticipatory bail in Jhanjharpur (Araria Sangrampur) P.S. Case No. 39/2013. Accordingly, the same is rejected.

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(Prabhat Kumar Jha, J)